

transportation properly is allowed for any importation of fish, birds, or other wildlife which at the place of first arrival or discharge is not confirmed to be an injurious prohibited specie and which, following compliance with any applicable quarantine regulations or required veterinary inspection, is being transported by means of an in-bond movement to a port of entry designated in 50 CFR part 17, appendix B, for Customs entry (see paragraphs (a) and (b) of this section). Ports of designated entry, inspection, quarantine, and related enforcement procedures covering certain animals and poultry and certain animal and poultry products imported into the United States are regulated by requirements and standards prescribed in regulations of the Secretary of Agriculture, Department of Agriculture (see 9 CFR parts 92-96; 19 CFR 12.8 and 12.24).

(j) Wild animals and birds shall be imported under humane and healthful conditions, due regard being given to the accommodations and facilities necessary for the species transported.

(k) When any Customs officer has good reason to believe that wild animals or birds have been imported under inhumane or unhealthful conditions in violation of 18 U.S.C. 42, an immediate investigation shall be made to ascertain whether they have in fact been transported under such conditions. The investigation shall determine the provisions made on the vessel or other conveyance for the accommodation of the animals or birds, the suitability of the boxes, cages, stalls, etc., the space, ventilation, and protection from the elements accorded the animals or birds, the facilities for cleaning, feeding, watering, bedding, and such other services as may be required for the species imported. The investigation shall also determine, the physical condition of such animals or birds and the ratio of dead, crippled, diseased, or starving animals or birds. If necessary, officers of the Animal and Plant Health Inspection Service, Veterinary Services, or Fish and Wildlife Service, or other officers or experts, may be called upon to assist customs officers in the matter.

(l) Unless the port director is satisfied that the provisions of 18 U.S.C. 42 have not been violated, he shall report

the matter to the United States attorney for appropriate action.

[28 FR 14710, Dec. 31, 1963]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 12.26, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 12.27 Importation or exportation of wild animals or birds, or the dead bodies thereof illegally captured or killed, etc.

Customs officers shall perform all duties required of them under statutory provisions that prohibit or restrict the importation or exportation of wild animals or birds, or the dead bodies thereof, or the eggs of such birds, killed, captured, taken, transported, etc., contrary to law. Such laws and statutory provisions include 18 U.S.C. 43, 44, 3054, 3112.

[T.D. 89-1, 53 FR 51253, Dec. 21, 1988]

§ 12.28 Importation of wild mammals and birds in violation of foreign law.

No imported wild mammal or bird, or part or product thereof, shall be released from Customs custody, except as permitted under § 12.26(i) relating to an in-bond movement to a port designated for wildlife entry, if the port director has knowledge of a foreign law or regulation obliging enforcement of section 527(a), Tariff Act of 1930 (19 U.S.C. 1527(a)), unless the importation is an excepted transaction entitled to entry under the provisions of section 527(c) of the Tariff Act or, in connection with the entry, there is presented documentation in the manner specified in 50 CFR 17.4(c) (1) or (2) required for import transactions subject to foreign laws or regulations regarding taking, transportation, or sale of wildlife including wild mammals and birds or parts or products thereof (see § 12.26).

[T.D. 70-242, 35 FR 17994, Nov. 24, 1970, as amended by T.D. 82-145, 47 FR 35476, Aug. 16, 1982]

§ 12.29 Plumage and eggs of wild birds.

(a) The provisions of Chapter 5, Additional U.S. Note 1, relating to the plumage of any bird, apply to all such plumage, whether imported separately or upon the bird itself, except (1) the

feathers of birds specifically excepted by Additional U.S. Note 1 to Chapter 5, Harmonized Tariff Schedule of the United States (HTSUS), (2) plumage imported for scientific or educational purposes, (3) fully-manufactured artificial flies used for fishing, (4) plumage on game birds killed in foreign countries by residents of the United States and not imported for sale or other commercial purposes, and (5) plumage on live wild birds.

(b) The feathers or skins of certain birds may be imported for use in the manufacture of artificial flies used for fishing or for millinery purposes only under a permit issued by the Fish and Wildlife Service, United States Department of Interior, Washington DC 20240. No feathers or skins of the pro-species provided for by Additional U.S. Note 1, Chapter 5, HTSUS, shall be permitted to be entered, or withdrawn from warehouse, for consumption, unless the requisite permit is presented with the entry or withdrawal.

(c) The importation of the eggs of wild nongame birds is prohibited except as dead natural history specimens for museum or scientific collection purposes. The eggs of migratory birds may be imported for propagating purposes or for scientific and other limited purposes under permits issued by the Fish and Wildlife Service, U.S. Department of the Interior, Washington, DC 20240. State game departments, municipal game farms or parks, and public museums, zoological parks or societies, and scientific or educational institutions may import the eggs of migratory birds without a permit (50 CFR 16.3). The eggs of certain game or migratory birds imported for hatching, such as ducks, geese, swans, turkeys, pigeons, doves, pheasant, grouse, partridges, quail, guinea fowl, and pea fowl, are subject to the regulations of the Animal and Plant Health Inspection Service, Veterinary Services, U.S. Department of Agriculture, Washington, DC 20250. Such regulations require that permits, except for eggs from Canada offered for entry at certain land border ports, must be obtained before the eggs are shipped from the country of origin and that all eggs shall be accompanied by a certificate issued by a national government vet-

erinarian of the country of origin and inspected at a designated port of entry.

(d) Upon the attempted importation of eggs of wild birds, the importation of which is prohibited by Chapter 4, Additional U.S. Note 26, the eggs shall be seized and the importer accorded an opportunity to assent to forfeiture. In the event the importer refuses or fails to assent to the forfeiture of the prohibited eggs, the port director shall proceed to forfeit them under the provisions of the tariff act applicable to seizure and forfeiture of merchandise valued at less than \$2,500.

[28 FR 14710, Dec. 31, 1963, as amended by T.D. 66-68, 31 FR 5358, Apr. 5, 1966; T.D. 78-99, 43 FR 13060, Mar. 29, 1978; T.D. 82-145, 47 FR 35476, Aug. 16, 1982; T.D. 89-1, 53 FR 51253, Dec. 21, 1988; T.D. 97-82, 62 FR 51770, Oct. 3, 1997]

§ 12.30 Whaling.

The importation and exportation of whales or whale products taken or processed in violation of the International Convention for the Regulation of Whaling signed at Washington under date of December 2, 1946 (Publication No. 3383, Department of State, Whaling Convention), or of the Whaling Convention Act of 1949 (16 U.S.C. 916 through 916(1)), or of any regulation issued under the Act (50 CFR part 351) is unlawful. Customs officers and employees shall perform all functions required of them by the above-mentioned convention, law and regulation.

[T.D. 89-1, 53 FR 51253, Dec. 21, 1988]

§ 12.31 Plant pests.

The importation in a live state of insects which are injurious to cultivated crops, including vegetables, field crops, bush fruits, and orchard, forest or shade trees, and of the eggs, pupae, or larvae of such insects, except for scientific purposes under regulations prescribed by the Secretary of Agriculture, is prohibited. All packages containing live insects or their eggs, pupae, or larvae arriving from abroad, unless accompanied by a permit issued by the Department of Agriculture, shall be detained and submitted to the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine